

**CITY OF HOUSTON**  
**REQUEST FOR PROPOSAL (RFP)**  
**FINANCIAL SERVICES FOR DISASTER**  
**RELATED FUNDING**  
**SOLICITATION NO.: S36-T26449**

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**Date Issued:** January 26, 2018

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**Pre-Proposal Conference:** February 1, 2018 @ 9:00 A.M.  
611 Walker, 11<sup>th</sup> Floor  
Conference Room 1148  
Houston, TX 77002  
Conference No.# (515) 604-9610  
Access Code# 174062

**Pre-Proposal Questions  
Deadline:** February 6, 2018 @ 2:00 P.M

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**Solicitation Due Date:** February 15, 2018 @ 4:00 P.M., CST

**Solicitation Contact Person:** Valerie Player-Kaufman  
[valerie.player-kaufman@houstontx.gov](mailto:valerie.player-kaufman@houstontx.gov)  
832-393-8749

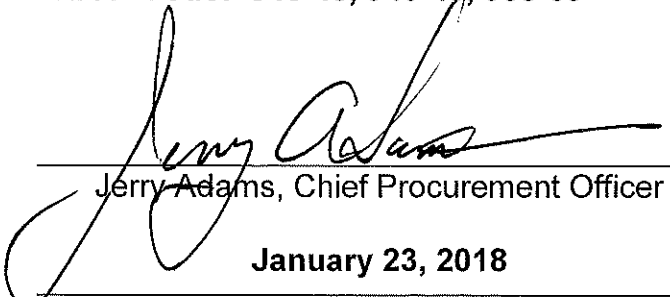
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**Project Summary:** Financial Services for Disaster Related Funding. The project term is for a three (3) year contract with two (2), one (1) year options to renew.

**Project Description:** The City of Houston is seeking Proposers to provide financial services for disaster related funding sources related to Hurricane Harvey and to perform related duties with respect to other disasters that may occur during the term of the resulting contract.

**NIGP Code: 946-48, 946-49, 958-39**

**MWBE Goal: 24%**

  
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Jerry Adams, Chief Procurement Officer

**January 23, 2018**

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Date

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## **PART I – GENERAL INFORMATION**

### **A. General Information**

The City of Houston ("City") is currently seeking proposals from qualified firms to provide financial services for disaster related funding sources related to Hurricane Harvey and to perform related duties with respect to other disasters that may occur during the term of the resulting contract.

In August 2017, Hurricane Harvey deluged Houston with rainfall totals approaching 50 inches throughout the greater Houston area resulting in widespread flooding. The effect of Hurricane Harvey to the City of Houston was significant, causing widespread damage in many areas including homes, businesses, core infrastructure, and government properties.

The City's estimated costs as a result of the storm are estimated to be at least \$2.4 billion, including damage to City buildings and infrastructure, but the damage figure may go higher as the City works to identify latent infrastructure damage (e.g., subsurface impacts to roads, water and sewer lines). This includes damage to Theater District facilities, Municipal Court facilities, as well as water and wastewater treatment plants and 6,400 miles of roadway. The City is still working to verify the total number of homes damaged, but ongoing efforts have identified at least 311,000 housing units believed affected by wind, rain and/or floodwaters.

These costs could have created cash flow challenges for the City in the short term had the City not closely monitored its cash position and pursued and was successful in receiving advances from Federal Emergency Management Administration ("FEMA"). Further challenges can be addressed through conservative fiscal management and utilization of credit facilities (some already available, some in development); and the City anticipates that these shall require continued attention. Additionally, billions of dollars federal funding from various agencies are anticipated in conjunction with recovery efforts. These shall flow to a variety of departments and require centralized oversight under the Finance Department's auspices (the City currently utilizes a decentralized financial management structure in which some key recovery-oriented departments such as Housing & Community Development and Public Works & Engineering have their own finance functions embedded).

### **B. City of Houston Background**

The City of Houston is the fourth largest city in the United States comprising 23 departments with multiple locations throughout the City.

The \$5 billion annual budget includes funding for general government expenditures and enterprise systems including the combined utility system and the airports. The \$8 billion five-year capital improvement plan includes planned appropriations for general government and enterprise systems and is inclusive of major equipment purchases such as information technology systems and vehicles. For further details, please refer to FY2018 Adopted Budget as well as the most recent Monthly Financial Report (<http://www.houstontx.gov/budget/index.html>) and the FY18-22 Adopted Capital Improvement Plan (<http://www.houstontx.gov/cip/>).

### C. Solicitation Schedule

Listed below are the important dates for this Request for Proposal (RFP).

<b><u>EVENT</u></b>	<b><u>DATE</u></b>
Date of RFP Issued	January 26, 2018
Pre-Proposal Conference	February 1, 2018
Questions from Proposers Due to City	February 6, 2018
Proposals Due from Proposers	February 15, 2018
Notification of Intent to Award ( <i>Estimated</i> )	March 15, 2018
Council Agenda Date ( <i>Estimated</i> )	April 11, 2018
Contract Start Date ( <i>Estimated</i> )	April 17, 2018

## **PART II – SCOPE OF WORK / TECHNICAL SPECIFICATIONS**

### **A. PURPOSE**

The City of Houston ("City") is seeking a consultant to provide financial modeling, reporting, and support for all disaster recovery funding received for Hurricane Harvey and other disasters. The contractor must be a financial firm with extensive Federal, State, and local government disaster relief oversight experience, as well as comprehensive financial management, grants management, insurance, and contract management knowledge, along with skills to assist with unanticipated events. In addition, expertise in financial advisory services to assist the Finance Department with tracking, monitoring, reporting, and modeling of disaster-related revenues and expenditures, is required. Anticipated revenue streams include, but are not limited to, revenues from the State of Texas, the Federal Emergency Management Agency (FEMA) Public Assistance and Hazard Mitigation Grant Programs, the U.S. Department of Housing and Urban Development (HUD), the Federal Highway Administration (FHWA), the General Land Office, and others, which, in totality, could exceed tens of billions of dollars.

### **B. OBJECTIVE**

The selected firm shall provide the City of Houston with the requisite knowledge and extensive proficiency in providing disaster-related financial management services, including demonstrated familiarity with internal and external financial management software (including the SAP system, HUD's Disaster Recovery Grant Reporting system and other financial management systems as required). The consultant must be adept at coordinating multiple funding streams simultaneously and able to rapidly scale resources to meet the City's needs.

### **C. SCOPE OF WORK (SERVICES AND DELIVERABLES)**

The selected firm shall provide financial oversight services for disaster-related funding sources due to Hurricane Harvey and to perform related duties. Provide assistance as required to COH staff regarding cash flow, budgetary matters, and tax implications related to the recovery which may include: cash flow forecasting, quantifying lost tax revenues, quantifying changes to expense and capital outflows, and identifying alternative revenue and expense measures. The Finance Department may issue task orders describing the services and deliverables required. The task order requirements shall be negotiated with the selected Proposer. Financial oversight services include, but are not limited to the following:

1. Develop detailed recovery financial models for the City.
  - a. All models, reports, and systems should be compatible with SAP and able to be maintained by the City on an ongoing basis upon the termination of the contract.
  - b. Models should include tracking and monitoring of financial strategies in mitigating effects of any future flooding.
  - c. Detail Sources –
    - i. The financial models should identify the sources, timing, and amounts of funding, which may include grants, advances, and borrowing.
    - ii. The models should include all disaster-related expenditures including overhead.
  - d. Detail Uses – Costs and impacts of various financing alternatives.
    - i. Short term (1 to 2 years) to ensure sufficient cash flow
    - ii. Medium term (2 to 5 years – related to FEMA and similar reimbursements)
    - iii. Long term (5 to 10 years, or longer as needed to account for capital improvements or repairs)

2. Develop disaster recovery fund-level budgets in SAP by FEMA category and fund-level reporting systems.
  - a. Reporting should be automated and be fed from information in SAP and other sources.
  - b. Reporting shall be ongoing and public-facing.
  - c. Reports shall be provided in the Monthly Financial Report and the Quarterly Financial Report.
    - i. For the following funding sources:
      1. HUD/CDBG
      2. FEMA Public Assistance and Hazard Mitigation Grant Program
      3. FHWA
      4. General Land Office
      5. Federal Small Business Administration
      6. Federal Economic Development Administration
      7. Other funding sources as applicable
    - ii. For the following recovery funds:
      1. Housing Disaster Recovery Fund
      2. General Government Disaster Recovery Fund
      3. Storm Water Disaster Recovery Fund
      4. Combined Utility System Disaster Recovery Fund
      5. Aviation Disaster Recovery O&M Fund
      6. Others, including disaster recovery funds related, if required.
3. Work with the City to tie disaster recovery funds into:
  - a. Ongoing CIP unrelated to hurricane recovery projects
  - b. Current and future operating budgets
4. Provide quarterly financial reports on efficacy of recovery efforts.
  - a. Prepare quarterly progress financial reports with key milestones and related recovery activities.
  - b. Prepare special reports or flash reports in items that need immediate attention.
5. Finance and Accounting Support and Special projects
  - a. Provide resources to assist the City with back office accounting functions, as required, such as invoice processing, review of supporting documentation, document management, etc., to enable the City to focus on mission critical, day-to-day operations.
  - b. Work on disaster-related financial special projects as required or directed by the Director of Finance or designee.
  - c. Conduct research on disaster related issues as directed by the Director of Finance or designee.
  - d. Provide feedback on Federal and State rules and regulations
  - e. Recommend process improvements and corrective actions throughout the disaster recovery process related to financial management.
6. Support communications

Present information in the form of memorandums and/or presentations regarding disaster-related financial reporting to the Mayor, Controller, City Council, and others as needed.

## **D. LAWS, CODES, & SAFETY GUIDELINES**

The selected firm(s) must comply with all applicable governing local, state, and federal laws, executive orders, regulations, requirements, and guidelines, including but not limited to 24 CFR part 570, and 2 CFR part 200 and other FEMA, HUD, and FHWA requirements. The firm(s) shall comply with all laws, codes and safety guidelines applicable to the work being performed. For all laws, codes and safety guidelines cited here or elsewhere in specifications, the revision or edition in effect at the time of performance of the work shall apply. The laws, codes, and safety guidelines to be followed shall include, but are not limited to the following:

Compliance with Environmental Laws. Firms(s) shall comply with all laws relating to environmental matters including, without limitation, those relating to fines, orders, injunctions, penalties, damages, contribution, cost recovery compensation, losses or injuries resulting from the release or threatened release of hazardous materials, special wastes or other contaminants into environment and to generation, use, storage, transportation, or illegal disposal of solid wastes, hazardous materials, special wastes or other contaminants including, without limitation, the Comprehensive Environmental Response and Compensation and Liability Act (42 U.S.C § 9602 et seq.), the Hazardous Material Transportation Act (49 U.S.C. § 1801 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.), the Clean Water Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.) The Toxic Substances Control Act of 1976 (15 U.S.C. § 2601 et seq.), the Safe Drinking Water Act (42 U.S.C. § 300f), the Occupational Safety and Health Act of 1970 (29 U.S.C § 651 et seq.), the Emergency Planning and Community Right-to-know Act (42 U.S.C § 11001 et seq.), TCEQ (415 ILCS 5/1 through 5/56.6) and the Municipal Code of the City of Houston, each as amended or supplemented, and any analogous future or present local, state or Federal statutes, rules and regulation promulgated thereunder or pursuant thereto, and any other present or future law, ordinance, rule regulation, permit or permit condition, order or directive regulating, relating to or imposing liability or standards of conduct concerning any hazardous materials or by Federal government, any state or any political subdivision thereof, or any agency, court or body of the Federal government, any state or any political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions (collectively, **"Environmental Laws"**).

Permits. The Firm(s) shall at their own expense and in its own name obtain and maintain all permits, licenses, vehicle stickers, certificates and licenses required by the City and/or other State or Federal requirements as may be necessary to legally perform its obligation.

## **E. EXHIBITS**

The following document is provided as an aid in responding to this solicitation:

See "Exhibit-A": Resource Loaded Staffing Plan

## **PART III – EVALUATION AND SELECTION PROCESS**

An evaluation committee shall evaluate Proposers' submissions in accordance with the evaluation criteria listed in Part VI. Upon completion of the evaluation, the committee may develop a short list of Proposer(s) meeting the technical competence requirements. The shortlisted Proposer(s) may be scheduled for a structured oral presentation, demonstration, interview and negotiations. Following these City-to-Proposer(s)' meetings, the evaluation team will summarize their findings and recalculate their scores, if needed. However, the evaluation committee reserves the right to issue letter(s) of clarification when deemed necessary to any or all Proposer(s). The oral presentations, demonstrations and/or interviews may be recorded and/or videotaped.



## **A. Interviews/Oral Presentations/Demonstrations**

The City reserves the right to request that Proposer(s) provide a final presentation handout of its Proposal at their scheduled meeting. No Proposer may attend presentations of any other Proposer. If necessary, Proposers may be scheduled for more than one presentation, demonstration, or interview.

## **B. Selection Process**

Upon review of all information provided by Proposers, the evaluation committee will make a recommendation for selection to City officials. The City reserves the right to check references on any projects performed by the Proposer, whether provided by the Proposer or known by the City. Selected Proposal shall be submitted for approval by the appropriate City officials. The City of Houston intends to select a Proposal that best meets the needs of the City and that provide the best overall value. Upon approval of the selected Proposer, a contract shall be executed by the appropriate City officials.

## **C. Best and Final Offer (BAFO)**

City reserves the right to request a Best and Final Offer from finalist Proposer(s), if necessary. At a minimum, the Best and Final Offer would consist of submitting a final Fee Schedule with associated costs, and address any outstanding items previously identified during the evaluation of Proposals.

If the City chooses to invoke a "required BAFO" option, Proposals shall then be re-evaluated by the evaluation committee. The BAFO shall include instructions, requirements, and a specified submission due date

## **D. Evaluation Criteria**

### **1. Responsiveness of Proposal (Pass/Fail)**

- 1.1. Proposal shall be responsive to all material requirements that will enable the evaluation committee to evaluate proposals in accordance with the evaluation criteria to make a recommendation to City officials.

### **2. Technical Competence/Requirements**

- 2.1 Quality of overall proposed plan of action including, but not limited to, strategy, and understanding of RFP technical requirements outlined in the RFP Scope of Work. **(35 Points Total)**
  - 2.1.1 Clear, understandable and organized plan of action. (15 Points)
  - 2.1.2 Did the proposer offer a well-defined strategy? (15 Points)
  - 2.1.3 How well does the Proposer understand the RFP technical requirements? (5 Points)
- 2.2 Qualifications and experience of key personnel assigned as evidenced by their credentials and role in like projects. **(45 Points Total)**
  - 2.2.1 Does the Proposer have comparable experience providing similar financial services? (10 Points)
  - 2.2.2 Does the Proposer and its assigned staff have a strong background, history, resources, and track record in providing financial services? (25 Points)
  - 2.2.3 Does the Proposer's assigned staff have specialized experience related to local and/or state governmental entities? (10 Points)
- 2.3 Financial stability of the proposer **(Pass/Fail)**

2.3.1 **Profitability Measure:**  $\text{Return on capital employed} = \frac{\text{Earnings Before Interest and Tax (EBIT)}}{\text{Capital Employed (equity + long-term liabilities)}}$

2.3.2 **Long-term Solvency Measure:**  $\text{Leverage} = \frac{\text{Total Debt (short-term + long-term)}}{\text{Total Assets (fixed + current)}}$

2.3.3 Is the Proposer's financial strength sufficient to provide for the services proposed?

2.4 M/WBE Participation (**Pass/Fail**)

2.4.1 Quality of proposed sub-contractors, including certified M/WBE firms

### 3. Price Proposal (20 Points)

3.1 The Fee Schedule Proposal must include fully burdened rates for the key personnel, by title, and must be broken down by each item under the scope of work.

3.2 The fee schedule proposal should be in the form of EXHIBIT "A" – RESOURCE LOADED STAFFING PLAN.

3.3 Price shall not be used to determine the shortlisted proposers.

3.4 THE FEE SCHEDULE PROPOSAL MUST BE SUBMITTED IN A SEPARATE SEALED ENVELOPE that is clearly marked with the RFP title and solicitation number and the label "Price Proposal".

### E. ADDITIONAL RELATED SERVICES

In submitting Proposal, Proposer(s) shall indicate a willingness to negotiate future potential additional services deemed appropriate for the scope of services, as provided herein, or deemed necessary and/or desirable by the City.

## PART IV – SUBMISSION OF PROPOSAL

### A. Instructions for Submission

1. **Number of Copies.** Submit **one (1)** printed original signed in BLUE ink, and **six (6)** electronic thumb drives submitted in a sealed envelope bearing the assigned solicitation number located on the first page of this RFP solicitation document to:

Office of the Chief Procurement Officer  
910 Louisiana Street, 43<sup>rd</sup> Floor  
Houston, Texas 77002

The City of Houston shall bear no responsibility for submitting responses on behalf of any Proposer. Proposer(s) may submit their Proposal to the City Secretary's Office any time prior to the stated deadline.

2. Time for Submission. Proposals shall be submitted no later than the date and time indicated for submission in this RFP. Late submittals will not be considered and will be returned unopened.
3. Format. Proposal must be left-bound with information on both sides of the page when appropriate. Material should be organized following the order of the submission requirements separated by labeled tabs, and shall be securely bound. Submission materials will not be returned to Proposers.
4. Complete Submission. Proposers are advised to carefully review all the requirements and submit all documents and information as indicated in this RFP. Incomplete proposals may lead to a proposal being deemed non-responsive, meaning that non-responsive proposals will not be considered.
5. Packaging and Labeling. The outside wrapping/envelope shall clearly indicate the RFP title, date, and time for submission. It shall also indicate the name of the proposer. The Price Proposal shall be submitted in a separate sealed envelope. The envelope shall clearly identify the content as "Price Proposal." Thumb drives shall be submitted in yet another sealed envelope and marked accordingly. All other submission requirements shall be included with the Proposer's Technical Proposal.
6. Timely Delivery of Proposals. The Proposal, including the Technical Proposal, Fee Schedule and signed Offer and Submittal form must be delivered by hand or mailed by one's preferred courier to the address shown on the cover sheet of this RFP. Include the RFP number on any package delivered or sent to the City Secretary's Office and on any correspondence related to the Proposal. If using an express delivery service, the package must be addressed and delivered specifically to the City Secretary's Office. Packages delivered by express mail services to other locations may not be re-delivered to its destination by the deadline hour.
7. Late Proposals. Proposers remain responsible for ensuring that its Proposal is received at the time, date, place, and office specified. The City assumes no responsibility for any Proposal not received, regardless of whether the delay is caused by the U.S. Postal Service, a courier delivery service, or some other act or circumstance.

## **B. Submission Requirements**

1. Cover Letter. The cover letter shall be signed by an authorized representative of the Proposer. The letter should indicate the Proposer's commitment to provide the services proposed, and shall identify all staff members of the team. Define the organizational relationship of team members and projected responsibilities assigned for each.
2. Executive Summary: The executive summary should include a brief overview of the proposed plan of action, including, but not limited to, strategy for implementation, and understanding of the of RFP technical requirements.
3. Offer and Submittal Form: See Exhibit I
4. General Company Information: Provide the name of your company (including the name of any parent company), business address, e-mail address, Federal Tax ID number, telephone number, and fax number
  - 4.1 Key Personnel: Identify the key personnel that will be committed to the project. The City reserves the right to reject any key personnel proposed if it is determined in the City's best interest. All key personnel must be committed to the project at the appropriate time level. Proposer understands that the qualifications and experience of key personnel proposed will be factored into the evaluation process; therefore, key personnel must not be replaced without the approval of the City. Any approved substitutions must be with personnel of equal or better qualifications. In addition, any other commitments must not conflict with the level of commitment proposed for this project.

- 4.1.1. Provide names and titles of key personnel and an organizational chart of your proposed project team. Provide professional resumes of all key personnel.
  - 4.1.2. In addition, provide the time commitment for each key personnel, including the level of commitment to other projects, if any.
  - 4.1.3. Provide a statement of capacity to achieve business goals, objective aligned with the scope of services
3. Knowledge and Experience: Provide detailed relevant information about your company's knowledge and experience, including:
  - 3.1 Summarize three or more deployments (in similar size and scope to this RFP), with brief descriptions that demonstrate your experience providing consulting service for a major metropolitan area;
  - 3.2 Submit a written plan of action, including examples of deliverables as you deem appropriate, on how you will meet the City's Financial Services for Disaster Related Funding requirements;
  - 3.3 Company track record: Provide a brief summary of firm's background history, number of years in business, total number of employees, key personnel and their availability to be deployed on this project for the City of Houston.
4. Client References: Provide the name and reference contact information for three (3) clients for whom you have provided similar services to municipalities within the past three (3) years. Provide size and scope of each project with brief descriptions of the projects. Specifically, provide the following:
  - 4.1 Name and location of project(s);
  - 4.2 "CURRENT" reference contact name, telephone numbers, and e-mail addresses;
  - 4.3 Deployment completion date(s) or current status;
5. M/WBE Participation: Identify an M/WBE subcontractor and submit a signed-off "M/WBE Letter of Intent" form identifying the role of each subcontractor for this implemented project.
6. Financial Stability: a) Provide the audited financial statements for the past two years. (At a minimum, include the letter of opinion, balance sheet, schedules, and related auditor's notes.)
7. Exceptions to Standard Contract: Submit any Exceptions to the standard contract and include the rationale for taking the Exception. Provide rationale for objections to the Article. Such Exceptions will be considered when evaluating the Proposer's response to this RFP. If you are proposing alternate language, include the proposed language for consideration, along with the corresponding Article Nos. within the RFP.
8. Legal Actions: Provide a list of any pending litigation and include a brief description of the reason for legal action.
9. Conflict of Interest: Provide information regarding any real or potential conflict of interest. Failure to address any potential conflict of interest upfront may be cause for rejection of the Proposal.
10. Other: Submit any information the Proposer deems pertinent to demonstrating its qualifications to perform the services being requested, such as memberships in any professional associations, documents, examples, etc.
11. Forms and Certifications: Complete all forms and certifications attached, as appropriate.
12. Price Proposal: Please submit price proposal with the level details as required.

## **Part V – EXCEPTIONS TO TERMS AND CONDITIONS**

All exceptions included with the Proposal shall be submitted in a clearly identified separate section of the Proposal in which the Proposer clearly cites the specific paragraphs within the RFP where the Exceptions occur. Any Exceptions not included in such a section shall be without force and effect in any resulting contract unless such Exception is specifically referenced by the Chief Procurement Officer or designee, City Attorney, Director(s) or designee in a written statement. The Proposer's preprinted or standard terms will not be considered by the City as a part of any resulting contract.

All Exceptions that are contained in the Proposal may negatively affect the City's Proposal evaluation based on the evaluation criteria as stated in the RFP, or result in possible rejection of Proposal.

## **Part VI – SPECIAL CONDITIONS**

### **A. No Contact Period**

Neither Proposer(s) nor any person acting on Proposer(s)'s behalf shall attempt to influence the outcome of the award by the offer, presentation or promise of gratuities, favors, or anything of value to any appointed or elected official or employee of the City of Houston, their families or staff members. All inquiries regarding the solicitation are to be directed to the designated City Representative identified on the first page of the solicitation. Upon issuance of the solicitation through the pre-award phase and up to the date the City Secretary publicly posts notice of any City Council agenda containing the applicable award, aside from bidder's formal response to the solicitation, through the pre-award phase, written requests for clarification during the period officially designated for such purpose by the City Representative, neither Proposers(s) nor persons acting on their behalf shall communicate with any appointed or elected official or employee of the City of Houston, their families or staff through written or oral means in an attempt to persuade or influence the outcome of the award or to obtain or deliver information intended to or which could reasonably result in an advantage to any bidder. However, nothing in this paragraph shall prevent a bidder from making public statements to the City Council convened for a regularly scheduled session after the official selection has been made and placed on the City Council agenda for action, or to a City Council committee convened to discuss a recommendation regarding the solicitation.

### **B. Minority and Woman Business Enterprises (M/WBE)**

Contactor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least the value stated in this Agreement to MWBE's. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunity (OBO) and will comply with them.

### **C. Protests**

"Protests should be filed in accordance with the City of Houston Administrative Policy (A.P. No. 5-12)" [http://www.houstontx.gov/policies/administrative\\_policies.html](http://www.houstontx.gov/policies/administrative_policies.html)

### **D. Cancellation**

The City of Houston has sole discretion and reserves the right to cancel this RFP, or to reject any or all Proposals received prior to contract award.

#### **E. Anti-Boycott of Israel:**

Vendor certifies that Vendor is not currently engaged in, and agrees until the funds are exhausted under this purchase order not to engage in, the boycott of Israel as defined by Section 808.001 of the Texas Government Code.

#### **F. Executive Order 1-56 Zero Tolerance for Human Trafficking in City Service Contracts and Purchasing**

The City of Houston has a zero tolerance for human trafficking and, per Executive Order 1-56, City funds shall not be used to promote human trafficking. City vendors are expected to comply with this Executive Order and notify the City's Chief Procurement Officer of any information regarding possible violation by the vendor or its subcontractors providing services or goods to the City. The Executive Order is available on the City's website: <http://www.houstontx.gov/execorders/1-56.pdf>

### **PART VII – INSTRUCTIONS TO PROPOSERS**

#### **A. Pre-Proposal Conference**

A Pre-Proposal Conference will be held at the date, time, and location as indicated on the first page of the RFP document. Interested Proposer(s) are encouraged to attend. It will be assumed that potential Proposer(s) attending this meeting have reviewed the RFP in detail, and are prepared to bring up any substantive questions not already addressed by the City.

#### **B. Additional Information and Specification Changes**

Requests for additional information and questions should be addressed to the Finance Department, Strategic Procurement Division, Senior Procurement Specialist, Valerie Player-Kaufman by telephone: (832) 393-8749; or by the preferred e-mail method to [valerie.player-kaufman@houstontx.gov](mailto:valerie.player-kaufman@houstontx.gov) no later than 2:00, CST Tuesday, February 6, 2018. The City of Houston shall provide written responses to all questions received by Proposers prior to the RFP submittal deadline. Questions received from all Proposer(s) shall be answered by the City and sent to Proposer(s) who are listed as having obtained the RFP. Proposer(s) shall be notified in writing of any changes in the specifications contained within this RFP.

#### **C. Letter(s) of Clarification**

1. All Letters of Clarification and interpretations to this Solicitation shall be in writing. Any Letter of Clarification(s) or interpretation that is not in writing shall not legally bind the City of Houston. Only information supplied by the City of Houston in writing or in this RFP should be used in preparing Proposal responses.
2. The City does not assume responsibility for the receipt of any Letters of Clarification sent to Proposer(s).

#### **D. Examination of Documents and Requirements**

1. Each Proposer shall carefully examine all RFP documents and familiarize themselves with all requirements prior to submitting a Proposal to ensure that the Proposal meets the intent of this RFP.
2. Before submitting a Proposal, each Proposer shall be responsible for making all investigations and examinations that are necessary to ascertain conditions and affecting the requirements of this RFP.

Failure to make such investigations and examinations shall not relieve the Proposer from obligation to comply, in every detail, with all provisions and requirements of the RFP.

#### **E. Post-Proposal Discussions with Proposer(s)**

It is the City's intent to commence final negotiation with the Proposer(s) deemed most advantageous to the City. The City reserves the right to conduct post-Proposal discussions with any Proposer(s).

### **PART VIII – REQUIRED FORMS TO BE SUBMITTED WITH PROPOSAL**

- A. Offer and Submittal, List of References, and List of Proposed Subcontractors (Exhibit I)
- B. Signed M/WBE Forms: Attachment "A" Schedule of M/WBE Participation, Attachment "B," Notice of Intent, Attachment "C," Certified M/WBE Subcontract Terms, Attachment "D," Office of Business Opportunity and Contract Compliance M/WBE Utilization Report (Exhibit II)
- C. Fair Campaign Ordinance Form "A" (Exhibit III)
- D. Affidavit of Ownership or Control (Exhibit IV)
- E. Anti-Collusion Statement (Exhibit V)
- F. Bidder's Statement of Residency (Exhibit VI)
- G. Conflict of Interest Questionnaire (Exhibit VII)

### **PART IX – REQUIRED FORMS TO BE SUBMITTED BY RECOMMENDED VENDOR ONLY**

Required forms shall be supplied to the Contractor after the award recommendation:

- A. Insurance Requirements and Sample Insurance Certificate
- B. Drug Compliance Agreement Attachment "A," Drug Policy Compliance Declaration Attachment "B," and Contractor's Certification of No Safety Impact Positions Attachment "C" and "D"
- C. City Contractors' Pay or Play Acknowledgement Form (POP-1)  
<http://www.houstontx.gov/obo/payorplay/pop1.pdf> and Pay or Play Certificate of Compliance (POP-2)  
<http://www.houstontx.gov/obo/payorplay/pop2.pdf>
- D. Hire Houston First Affidavit (Download Copy at <http://www.houstontx.gov/obo/hirehoustonfirst.html> and submit to Office of Business Opportunity, Houston Business Solutions Center by e-mail to [houstonbsc@houstontx.gov](mailto:houstonbsc@houstontx.gov), or fax to 832-393-0650, or submit copy with proposal
- E. Requested information outlined in the scope of work and other additional relevant/supporting information, or alternate Proposal.
- F. Texas Ethics Commission, Certificate of Interested Parties (Form 1295). Download a copy at <https://www.ethics.state.tx.us/tec/1295-Info.htm> .

**EXHIBIT I**  
**OFFER AND SUBMITTAL, REFERENCES, PROPOSED SUBCONTRACTORS**

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**EXHIBIT I  
OFFER AND SUBMITTAL**

NOTE: PROPOSAL MUST BE SIGNED AND NOTARIZED BY AN AUTHORIZED REPRESENTATIVE(S) OF THE PROPOSER, WHICH MUST BE THE ACTUAL LEGAL ENTITY THAT WILL PERFORM THE CONTRACT IF AWARDED AND THE TOTAL FIXED PRICE CONTAINED THEREIN SHALL REMAIN FIRM FOR A PERIOD OF ONE-HUNDRED EIGHTY (180) DAYS.

"THE RESPONDENT WARRANTS THAT NO PERSON OR SELLING AGENCY HAS BEEN EMPLOYED OR RETAINED TO SOLICIT OR SECURE THIS CONTRACT UPON AN AGREEMENT OR UNDERSTANDING FOR A COMMISSION, PERCENTAGE, BROKERAGE, OR CONTINGENT FEE, EXCEPTING BONA FIDE EMPLOYEES. FOR BREACH OR VIOLATION OF THIS WARRANTY, THE CITY SHALL HAVE THE RIGHT TO ANNUL THIS AGREEMENT WITHOUT LIABILITY OR, AT ITS DISCRETION, TO DEDUCT FROM THE CONTRACT PRICES OR CONSIDERATION, OR OTHERWISE RECOVER THE FULL AMOUNT OF SUCH COMMISSION, PERCENTAGE, BROKERAGE OR CONTINGENT FEE."

Respectfully Submitted:

\_\_\_\_\_  
(Print or Type Name of Contractor – Full Company Name)

City of Houston Vendor No. (If already doing business with City):  
\_\_\_\_\_

Federal Identification Number:  
\_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Authorized Officer or Agent)

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address of Contractor: \_\_\_\_\_  
Street Address or P.O. Box

\_\_\_\_\_  
City – State – Zip Code

Telephone No. of Contractor: (\_\_\_\_) \_\_\_\_\_

Signature, Name and title of Affiant: \_\_\_\_\_

\_\_\_\_\_  
(Notary Public in and for)

\_\_\_\_\_  
County, Texas

My Commission Expires: \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

**EXHIBIT I  
REFERENCES  
LIST OF PREVIOUS CUSTOMERS**

1. Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Award Date: \_\_\_\_\_ Contract Completion Date: \_\_\_\_\_  
Contract Name/Title: \_\_\_\_\_  
Email: \_\_\_\_\_  
Project Description: \_\_\_\_\_  
\_\_\_\_\_
2. Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Award Date: \_\_\_\_\_ Contract Completion Date: \_\_\_\_\_  
Contract Name/Title: \_\_\_\_\_  
Email: \_\_\_\_\_  
Project Description: \_\_\_\_\_  
\_\_\_\_\_
3. Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Award Date: \_\_\_\_\_ Contract Completion Date: \_\_\_\_\_  
Contract Name/Title: \_\_\_\_\_  
Email: \_\_\_\_\_  
Project Description: \_\_\_\_\_  
\_\_\_\_\_
4. Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Award Date: \_\_\_\_\_ Contract Completion Date: \_\_\_\_\_  
Contract Name/Title: \_\_\_\_\_  
Email: \_\_\_\_\_  
Project Description: \_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT I**  
**LIST OF SUBCONTRACTOR(S)**

The following is a list of Subcontractors we propose to engage on the following items of Work. Any item of Work which does not designate a Subcontractor will be done by the firm submitting the Proposal.

**SUBCONTRACTOR/SUPPLIER**

[illegible]

**EXHIBIT II  
ATTACHMENT "A"  
SCHEDULE OF MWBE PARTICIPATION**

<b>Date:</b>	
<b>Bid Number:</b>	
<b>Formal Bid Title:</b>	

[illegible]

TOTAL	\$
MWBE PARTICIPATION	\$
TOTAL BID AMOUNT	\$

**MWBE PARTICIPATION PLAN  
GOOD FAITH EFFORTS**

If you have exhausted your best efforts to comply with the City's MWBE Policy by seeking subcontracts and supply agreements with certified minority and women business enterprises, yet failed to meet the MWBE contract goal of this bid document, list below your good faith efforts to demonstrate compliance. For more information, please review the Good Faith Efforts Policy, which can be found on the OBO website at [www.houstontx.gov/ofo](http://www.houstontx.gov/ofo).

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**\*\*All firms listed above must be certified by the Office of Business Opportunity at the time of bid submission. This schedule of MWBE participation must be returned with the bid form.**

**The undersigned will enter into a formal subcontracting agreement with the MWBEs and suppliers listed on this participation plan upon award of a contract from the City.**

\_\_\_\_\_  
Bidder Company Name

\_\_\_\_\_  
Signature of Authorized Officer/Agent/Bidder & Title

\_\_\_\_\_  
Print or Typed Name of Authorized Officer/Agent/Bidder & Title

\_\_\_\_\_  
Date

**EXHIBIT II  
ATTACHMENT "B"  
OFFICE OF BUSINESS OPPORTUNITY AND  
CONTRACT COMPLIANCE MWBE UTILIZATION REPORT**

**NOTICE OF INTENT**

**THIS AGREEMENT IS SUBJECT TO MEDIATION AND CAN BE INITIATED BY THE COMPANIES SIGNED BELOW OR THE OFFICE OF BUSINESS OPPORTUNITY.**

To: City of Houston  
Administering Department

Date: \_\_\_\_\_

Project Name and Number \_\_\_\_\_

Bid Amount: \_\_\_\_\_ M/W/BE Goal: \_\_\_\_\_

\_\_\_\_\_, agrees to enter into a contractual agreement with  
Prime Contractor

\_\_\_\_\_, who will provide the following goods/services in connection  
MWBE Subcontractor

with the above-referenced contract:

\_\_\_\_\_ for an estimated amount of \$ \_\_\_\_\_ or \_\_\_\_\_ % of the total contract value.

\_\_\_\_\_ is currently certified with the City of Houston's Office of Business  
(M/W/BE Subcontractor) Opportunity to function in the aforementioned capacity.

\_\_\_\_\_ Intend to  
Prime Contractor M/W/BE Subcontractor

work on the above-named contract in accordance with the M/W/DBE Participation Section of the City of Houston Bid Provisions, contingent upon award of the contract to the aforementioned Prime Contractor.

\_\_\_\_\_  
Signed (Prime Contractor)

\_\_\_\_\_  
Signed (M/W/BE Subcontractor)

\_\_\_\_\_  
Printed Signature

\_\_\_\_\_  
Printed Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**EXHIBIT II  
ATTACHMENT "C"  
CERTIFIED MWBE SUBCONTRACT TERMS**

**CITY OF HOUSTON CERTIFIED MWBE SUBCONTRACT TERMS**

Contractor shall ensure that all subcontracts with M/WBE subcontractors and suppliers are clearly labeled **"THIS CONTRACT IS SUBJECT TO MEDIATION"** and contain the following terms:

1. \_\_\_\_\_(M/WBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's Office of Business Opportunity Director ("the Director").
2. \_\_\_\_\_(M/WBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform 1) audits of the books and records of the subcontractor, and 2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action or the applicable statute of limitations.
3. Within five (5) business days of execution of this subcontract, Contractor (prime contractor) and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.

These provisions apply to goal-oriented contracts. A goal-oriented contract means any contract for the supply of goods or non-professional services in excess of \$100,000.00 for which competitive proposals are required by law; not within the scope of the MBE/WBE/SBE program of the United States Environmental Protection Agency or the United States Department of Transportation; and which the City Chief Procurement Officer has determined to have significant MWBE subcontracting potential in fields which there are an adequate number of known MBEs, WBE's, and or SBE's (if applicable) to compete for City contracts.

The MWBE policy of the City of Houston will be discussed during the pre-proposal conference. For information, assistance, and/or to receive a copy of the City's Affirmative Action Policy and/or Ordinance, contact the Office of Business Opportunity Division at 832.393.0600, 611 Walker Street, 7<sup>th</sup> Floor, Houston, Texas 77002.

**EXHIBIT II**  
**ATTACHMENT "D"**  
**OFFICE OF BUSINESS OPPORTUNITY AND**  
**CONTRACT COMPLIANCE MWBE UTILIZATION REPORT**

**Report Period:** \_\_\_\_\_

**PROJECT NAME & NUMBER:** \_\_\_\_\_

**AWARD DATE:** \_\_\_\_\_

**PRIME CONTRACTOR:** \_\_\_\_\_

**CONTRACT NO.:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CONTRACT AMOUNT:** \_\_\_\_\_

**LIAISON/PHONE NO.:** \_\_\_\_\_

**MWBE GOAL:** \_\_\_\_\_

MWBE SUBVENDOR NAME	DATE OF OBO CERTIFICATION	DATE OF SUBCONTRACT	SUBCONTRACT AMOUNT	% OF TOTAL CONTRACT	AMOUNT PAID TO DATE	% OF CONTRACT TO DATE
Use additional pages if needed. Submit by the 15th day of the following month. Provide support documentation on all revenues paid to end of the report period to: MWBE's to reflect up/down variances on Contract amount.				Office of Business Opportunity ATTN: Carlecia Wright 713-837-9000 611 Walker, 7 <sup>th</sup> Floor Houston, Texas 77002		



**EXHIBIT III**  
**FAIR CAMPAIGN ORDINANCE**

The City of Houston Fair Campaign Ordinance makes it unlawful for a Contractor to offer any contribution to a candidate for City elective office (including elected officers and officers-elect). All respondents to this invitation to bid must comply with Houston Code of Ordinances Chapter 18 as amended relating to the contribution and solicitation of funds for election campaigns. Provisions of this ordinance are provided in part in the paragraphs that follow. Complete copies may be obtained from the office of the City Secretary.

Candidates for city office may neither solicit nor receive contributions except during a period commencing 270 calendar days prior to an election date for which a person is a candidate for such office and ending 90 calendar days after the election date, including run-off elections if such candidate is on the ballot.

Further, it shall be unlawful either for any person who submits a Bid or Proposal to contribute or offer any contribution to a candidate or for any candidate to solicit or accept any contribution from such person for a period commencing at the time of posting of the City Council Meeting Agenda including an item for the award of the Contract and ending upon the 30th day after the award of the Contract by City Council.

For the purposes of this Ordinance, a **Contract** is defined as each Contract having a value in excess of \$30,000 that is let by the City for professional services, personal services, or other goods or services of any other nature whether the Contract is awarded on a negotiated basis, request for Proposal basis, competitive Proposal basis or formal sealed competitive Bids. The term **Contractor** includes proprietors of proprietorships, partners having an equity interest of 10% or more of partnerships, (including limited liability partnerships and companies), all officers and directors of corporations (including limited liability corporations), and all holders of 10% or more of the outstanding shares of corporations.

**A STATEMENT DISCLOSING THE NAMES AND BUSINESS ADDRESSES EACH OF THOSE PERSONS WILL BE REQUIRED TO BE SUBMITTED WITH EACH BID OR PROPOSAL FOR A CITY CONTRACT.**

Completion of the attached form entitled "**Contractor Submission List**" will satisfy this requirement. Failure to provide this information may be just cause for rejection of your Bid or Proposal.

**EXHIBIT III**  
**FORM "A": FAIR CAMPAIGN**

**CONTRACTOR SUBMISSION LIST**  
**CITY OF HOUSTON FAIR CAMPAIGN ORDINANCE**

By submitting a bid or proposal to the City of Houston for a Contract in excess of \$50,000 or for which a request is presented to City Council for approval, all respondents agree to comply with Chapter 18 of the Code of Ordinances.

Pursuant to Section 18-36 of the Code of Ordinances, it is unlawful either for any contractor to contribute or offer any contribution to a candidate, or for any candidate to solicit or accept any contribution from a contractor for a period commencing at the time of posting of the City Council Meeting Agenda including an item for the award of the Contract and ending upon the 30th day after the award of the Contract by City Council, or a determination by City Council of the Mayor that the contract will not be awarded to a contractor.

The term "contractor" means any person who has received the award of a contract, has submitted a bid or proposal in any form for the award of a contract, or has been proposed to be awarded the contract in an item placed upon the City Council agenda, including any other person who seeks the award of the contract and is contesting, appealing, or protesting the award of the contract as proposed.

This list is submitted under the provisions of Section 18-36(b) of the City of Houston Code of Ordinances in connection with the attached Bid/Proposal of:

Firm or Company Name: \_\_\_\_\_

Firm or Company Address: \_\_\_\_\_

The firm/company is organized as indicated below. Check one as applicable and attach additional pages if needed to supply the required names and addresses.

☐ **SOLE PROPRIETOR**

Name \_\_\_\_\_  
Proprietor Address

☐ **A PARTNERSHIP**

**LIST EACH PARTNER HAVING EQUITY INTEREST OF 10% OR MORE OF PARTNERSHIP**  
**(IF NONE STATE "NONE")**

Name \_\_\_\_\_  
Partner Address

Name \_\_\_\_\_  
Partner Address

☐ **A LIMITED LIABILITY COMPANY**

LIST EACH MEMBER OR MANAGER (IF NO MEMBERS) HAVING EQUITY INTEREST OF 10% OR MORE IN THE LIMITED LIABILITY COMPANY (IF NONE, STATE "NONE")

Name \_\_\_\_\_  
Member/Manager Address

Name \_\_\_\_\_  
Member/Manager Address

Name \_\_\_\_\_  
Member/Manager Address

[ ] A CORPORATION

LIST ALL DIRECTORS OF THE CORPORATION (IF NONE STATE "NONE")

Name \_\_\_\_\_  
Director Address

Name \_\_\_\_\_  
Director Address

Name \_\_\_\_\_  
Director Address

LIST ALL OFFICERS OF THE CORPORATION (IF NONE STATE "NONE")

Name \_\_\_\_\_  
Officer Address

Name \_\_\_\_\_  
Officer Address

Name \_\_\_\_\_  
Officer Address

LIST ALL INDIVIDUALS OWNING 10% OR MORE OF OUTSTANDING SHARES OF STOCK OF THE CORPORATION (IF NONE STATE "NONE")

Name \_\_\_\_\_  
Owner Address

Name \_\_\_\_\_  
Owner Address

Name \_\_\_\_\_  
Owner Address

I certify that I am duly authorized to submit this list on behalf of the firm, that I am associated with the firm in the capacity noted below, and that I have knowledge of the accuracy of the information provided herein.

---

Signature

---

Printed Name

---

Title

Note: This list constitutes a government record as defined by § 37.01 of the Texas Penal Code.

12/15/2016

**EXHIBIT IV:**  
**CONTRACTOR OWNERSHIP DISCLOSURE ORDINANCE**

City Council requires knowledge of the identities of the owners of entities seeking to Contract with the City in order to review their indebtedness to the City prior to entering Contracts. Therefore, all respondents to this Invitation to Bid must comply with Houston Code of Ordinances Chapter 15, as amended (Sections 15-122 through 15-126) relating to the disclosure of owners of entities bidding on, proposing for or receiving City contracts. Provisions of this ordinance are provided in part in the paragraphs that follow. Complete copies may be obtained from the office of the City Secretary.

Contracting entity means a sole proprietorship, corporation, non-profit corporation, partnership, joint venture, limited liability company, or other entity that seeks to enter into a contract requiring approval by the Council but excluding governmental entities.

A contracting entity must submit at the time of its Bid or Proposal, an affidavit listing the full names and the business and residence addresses of all persons owning five percent or more of a contracting entity or, where a contracting entity is a non-profit corporation, the full names and the business and residence addresses of all officers of the non-profit corporation.

Completion of the **"Affidavit of Ownership or Control,"** included herein, and submitted with the Official Bid or Proposal Form will satisfy this requirement. Failure to provide this information may be just cause for rejection of your Bid or Proposal.

**EXHIBIT IV:**  
**AFFIDAVIT OF OWNERSHIP OR CONTROL**

ORIG. DEPT.: [DEPARTMENT] \_\_\_\_\_ FILE/I.D. NO.: [WBS No.] \_\_\_\_\_

**INSTRUCTION:** ENTITIES USING AN ASSUMED NAME SHOULD DISCLOSE THAT FACT TO AVOID REJECTION OF THIS AFFIDAVIT. THE FOLLOWING FORMAT IS RECOMMENDED: *CORPORATE/LEGAL NAME DBA ASSUMED NAME*.

STATE OF \_\_\_\_\_ §  
\_\_\_\_\_ §  
COUNTY OF \_\_\_\_\_ §

**AFFIDAVIT OF OWNERSHIP OR CONTROL**

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_  
\_\_\_\_\_ [FULL NAME] (the "Affiant"), \_\_\_\_\_  
\_\_\_\_\_ [STATE TITLE/CAPACITY WITH CONTRACTING ENTITY] of \_\_\_\_\_  
\_\_\_\_\_ [CONTRACTING ENTITY'S CORPORATE/LEGAL NAME] ("Contracting Entity"), who being by me duly  
sworn on oath stated as follows:

1. Affiant is authorized to give this affidavit and has personal knowledge of the facts and matters herein stated.

2. Contracting Entity seeks to do business with the City in connection with \_\_\_\_\_  
\_\_\_\_\_

[DESCRIBE PROJECT OR MATTER] which is expected to be in an amount that exceeds \$50,000.

3. The following information is submitted in connection with the proposal, submission or bid of Contracting Entity in connection with the above described project or matter.

4. Contracting Entity is organized as a business entity as noted below (check box as applicable).

**FOR PROFIT ENTITY:**

- ☐ SOLE PROPRIETORSHIP
- ☐ CORPORATION
- ☐ PARTNERSHIP
- ☐ LIMITED PARTNERSHIP
- ☐ JOINT VENTURE
- ☐ LIMITED LIABILITY COMPANY
- ☐ OTHER (Specify type in space below)

**NON-PROFIT ENTITY:**

- ☐ NON-PROFIT CORPORATION
- ☐ UNINCORPORATED ASSOCIATION

5. The information shown below is true and correct for the Contracting Entity; and

6. All owners of 10% or more of the Contracting Entity and, where the Contracting Entity is a non-profit entity, the required information has been shown for each officer, i.e., president, vice-president, secretary, treasurer, etc. **[NOTE: IN ALL CASES, USE FULL NAMES, LOCAL BUSINESS AND RESIDENCE ADDRESSES AND TELEPHONE NUMBERS. DO NOT USE POST OFFICE**

BOXES FOR ANY ADDRESS. INCLUSION OF E-MAIL ADDRESSES IS OPTIONAL, BUT RECOMMENDED. ATTACH ADDITIONAL SHEETS AS NEEDED.]

**Contracting Entity**

Name: \_\_\_\_\_

Business Address [No./STREET] \_\_\_\_\_

[CITY/STATE/ZIP CODE] \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

Email Address [OPTIONAL] \_\_\_\_\_

Residence Address [No./STREET] \_\_\_\_\_

[CITY/STATE/ZIP CODE] \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

Email Address [OPTIONAL] \_\_\_\_\_

**10% Owner(s) or More (IF NONE, STATE "NONE.")**

Name: \_\_\_\_\_

Business Address [No./STREET] \_\_\_\_\_

[CITY/STATE/ZIP CODE] \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

Email Address [OPTIONAL] \_\_\_\_\_

Residence Address [No./STREET] \_\_\_\_\_

[CITY/STATE/ZIP CODE] \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

Email Address [OPTIONAL] \_\_\_\_\_

## 7. Optional Information

Contracting Entity and/or \_\_\_\_\_ [NAME OF OWNER OR NON-PROFIT OFFICER] is actively protesting, challenging or appealing the accuracy and/or amount of taxes levied against \_\_\_\_\_ [CONTRACTING ENTITY, OWNER OR NON-PROFIT OFFICER] as follows:

Name of Debtor: \_\_\_\_\_

Tax Account Nos. \_\_\_\_\_

Case or File Nos. \_\_\_\_\_

Attorney/Agent Name \_\_\_\_\_

Attorney/Agent Phone No. (\_\_\_\_) \_\_\_\_\_

Tax Years \_\_\_\_\_

Status of Appeal [DESCRIBE] \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Affiant certifies that he or she is duly authorized to submit the above information on behalf of the Contracting Entity, that Affiant is associated with the Contracting Entity in the capacity noted above and has personal knowledge of the accuracy of the information provided herein, and that the information provided herein is true and correct to the best of Affiant's knowledge and belief.

\_\_\_\_\_  
Affiant

**SWORN TO AND SUBSCRIBED** before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Seal)

\_\_\_\_\_  
Notary Public

### **NOTE:**

This affidavit constitutes a **government record** as defined by Section 37.01 of the Texas Penal Code. Submission of a false government record is punishable as provided in Section 37.10 of the Texas Penal Code. Attach additional pages if needed to supply the required names and addresses.



**EXHIBIT V**  
**ANTI-COLLUSION STATEMENT**

**Anti-Collusion Statement**

The undersigned, as Proposer, certifies that the only person or parties interested in this Proposal as principals are those named herein; that the Proposer has not, either directly or indirectly entered into any Agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the award of this Contract.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Proposer Signature

**EXHIBIT VI**  
**BIDDER'S STATEMENT OF RESIDENCY**

The City may not award a contract for general construction, services, or purchases to a Nonresident Bidder unless Nonresident's Bid is lower than the lowest Bid submitted by a responsible Texas Resident Bidder by the same amount that a Texas Resident bidder would be required to underbid the Nonresident Bidder to obtain a comparable contract in the state in which Nonresident's principle place of business is located.

1. This certifies that the Bidder, \_\_\_\_\_, is a State of Texas Resident Bidder as defined in TEX. GOVT. CODE ANN. § 2252.001(4) (Vernon 2016).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

"Texas Resident Bidder" means a bidder whose principal place of business is in this State, and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in this State. *When bidder cannot sign 1, above, proceed to 2.*

2. a. \_\_\_\_\_ is a resident of \_\_\_\_\_ and is a Nonresident Bidder as defined in TEX. GOVT. CODE ANN. § 2252.001(3) (Vernon 2016).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

"Nonresident Bidder" means a bidder whose principal place of business is not in this State, but excludes a contractor whose ultimate parent company or majority owner has its principal place of business in this State.

- b. The State of \_\_\_\_\_ [does/does not] \_\_\_\_\_ have a state statute giving preference to resident bidders.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

If the answer to 2.b is that your state does have a statute giving preference to resident bidders, then you must provide a copy and proceed to 3.

3. A copy of the State of \_\_\_\_\_ statute is attached.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## EXHIBIT VII CONFLICT OF INTEREST QUESTIONNAIRE

### **CONFLICT OF INTEREST QUESTIONNAIRE:**

Chapter 176.006 of the Local Government Code ("the code") requires a Vendor/Contractor to file a Conflict of Interest Questionnaire (CIQ) with the City.

**NOTE:** Vendors/Contractors or Agents should **not** complete the CIQ if a conflict, as described below, **does not exist. Only Vendors/Contractors or Agents that actually have a conflict, as described below, must file a CIQ.**

### **Who must file a CIQ?**

A Vendor/Contractor or Agent of a Vendor/Contractor does not have to file a CIQ unless they intend to enter or is considering entering into a contract with the City or:

1. has an employment or other business relationship with the Local Government Officer/Family Member; or
2. has given the Local Government Officer/Family Member one or more gifts with the aggregate value exceeding \$250.00.

### **When must the Vendor/Contractor or Agent file a CIQ?**

The completed CIQ must be filed with the City Chief Procurement Officer not later than the 7<sup>th</sup> business day after the date the Vendor/Contractor or Agent:

1. begins discussions or negotiations to enter into a contract with the City;
2. submits an application to the City in response to a request for proposals or bids, correspondence, or any other writing related to a potential contract with the City;
3. becomes aware of an employment or other business relations with the Local Government Officer/Family Member;
4. becomes aware that he/she has given one or more gifts to the Local Government Officer/Family Member that exceeds \$250.00; or
5. an event that would make the CIQ incomplete or inaccurate.

### **What is a business relationship?**

Under Chapter 176, business relationship means a connection between two or more parties based on the commercial activity of one of the parties. The term does not include:

1. a transaction that is subject to a rate or fee regulation by a governmental entity;
2. a transaction conducted at a price and subject to terms available to the public; or
3. a purchase or lease of goods or services from a person who is chartered by a state or federal agency and is subject to regular examination and reporting to that agency.

The Conflict of Interest Questionnaire is available for downloading from the Texas Ethics Commission's website at <http://www.ethics.state.tx.us/forms/CIQ.pdf>.

The Original Conflict of Interest Questionnaire shall be filed with the Administration and Regulatory Affairs Department's Record Administration (Jerry Adams, City Chief Procurement Officer, 901 Bagby, Concourse Level, Houston, Texas 77002). Vendors and Contractors required to file shall include a copy of the form as part of the BID/Proposal package. **Any questions about filling out this form should be directed to your attorney.**

**EXHIBIT VII  
CONFLICT OF INTEREST QUESTIONNAIRE**

**CONFLICT OF INTEREST QUESTIONNAIRE**

**FORM CIQ**

For vendor or other person doing business with local governmental entity

**OFFICE USE ONLY**

Date Received

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

**1** Name of person who has a business relationship with local governmental entity.

**2** ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

**3** Name of local government officer with whom filer has employment or business relationship.

\_\_\_\_\_  
Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

☐ Yes

☐ No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes

☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

☐ Yes

☐ No

D. Describe each employment or business relationship with the local government officer named in this section.

**4**

\_\_\_\_\_  
Signature of person doing business with the governmental entity

\_\_\_\_\_  
Date

# **APPENDIX 1**

**(SAMPLE CONTRACT)**

THE STATE OF TEXAS :  
:  
COUNTY OF HARRIS :

## I. PARTIES

### A. Address

THIS AGREEMENT FOR \_\_\_\_\_ ("Agreement")

is made on the Countersignature Date between the **CITY OF HOUSTON, TEXAS** ("City"), a  
home rule municipality of the State of Texas, and \_\_\_\_\_

("Contractor"), a \_\_\_\_\_, authorized to do business in the State of Texas,

The initial addresses of the parties, which one party may change by giving written notice  
to the other party, are as follows:

City

Contractor

\_\_\_\_\_  
Department  
or Designee  
City of Houston

\_\_\_\_\_  
Phone Number: \_\_\_\_\_

\_\_\_\_\_  
Houston, Texas 77002

The Parties agree as follows:

### B. Table of Contents

This Agreement consists of the following sections:

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- A. **Scope of Basic Services**
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- C. **Certification of No Safety Impact Positions**
- D. **Drug Policy Compliance Declaration**
- E. **Pricing Form**

- C. Parts Incorporated

The above-described sections and exhibits are incorporated into this Agreement.



D. Signatures

The Parties have executed this Agreement in multiple copies, each of which is an original.

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Tax I.D. \_\_\_\_\_

ATTEST/SEAL:

Signed by:

CITY OF HOUSTON, TEXAS

City Secretary

Mayor

APPROVED:

COUNTERSIGNED BY:

Chief Procurement Officer

City Controller

APPROVED:

DATE COUNTERSIGNED:

Director \_\_\_\_\_ Department

APPROVED AS TO FORM:

Senior Assistant City Attorney

L.D. File No. \_\_\_\_\_

## II. DEFINITIONS

As used in this Agreement, the following terms have the meanings set out below:

"Agreement" means this contract between the Parties, including all exhibits and any written amendments authorized by City Council and Contractor.

"Chief Procurement Officer" is defined as the person or duly authorized successor, authorized in writing to act for the City. The term includes, except as otherwise provided in this Contract, the authorized representative of the Chief Procurement Officer acting within the limits of delegated authority.

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.

"Countersignature Date" means the date shown as the date countersigned on the signature page of this Agreement.

"Department" means the \_\_\_\_\_.

"Director" means the Director of the \_\_\_\_\_ Department, or the person he or she designates.

"Notice to Proceed" means a written communication from the Chief Procurement Officer to Contractor instructing Contractor to begin performance.

"Parties" mean all the entities set out in the Preamble who are bound by this Agreement.

"Project" means the \_\_\_\_\_.

SAMPLE

### III. DUTIES OF CONTRACTOR

#### A. Scope of Services

In consideration of the payments specified in this Agreement, Contractor shall provide all labor, material, and supervision necessary to perform the basic services for the Project described in Exhibit "A."

#### B. Coordinate Performance

Contractor shall coordinate its performance with the Director and other persons that the Director designates. Contractor shall promptly inform the Director and other person(s) of all significant events relating to the performance of this Agreement.

#### C. Payment of Subcontractors

Contractor shall make timely payments to all persons and entities supplying labor, materials, or equipment for the performance of this Agreement. CONTRACTOR SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONTRACTOR'S FAILURE TO MAKE THESE PAYMENTS.

#### D. Personnel of the Contractor

Contractor shall replace any of its personnel or subcontractors whose work product is deemed unsatisfactory by the Director.

E. RELEASE

CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY=S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY=S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

F. INDEMNIFICATION

CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS= FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY INCLUDING ANY LOSS, DAMAGE, CLAIM, COST, EXPENSE AND LIABILITY, INCLUDING ALL INDIRECT, INCIDENTAL AND CONSEQUENTIAL DAMAGES, WHICH MAY BE INCURRED BY OR ASSERTED AGAINST CITY ARISING OUT OR RELELATED TO CONTRACTOR'S BREACH OF CONTRACT, REGARDLESS OF WHETHER THE DAMAGES ARE ACTUAL, INCIDENTAL,

CONSEQUENTIAL OR PUNITIVE, SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

(1) CONTRACTOR=S AND/OR ITS AGENTS=, EMPLOYEES=, OFFICERS=, DIRECTORS=, CONTRACTORS=, OR SUBCONTRACTORS= (COLLECTIVELY IN NUMBERED PARAGRAPHS 1-3, "CONTRACTOR") ACTUAL OR ALLEGED NEGLIGENCE, INTENTIONAL ACTS OR OMISSIONS OR BREACH OF CONTRACT;

(2) THE CITY=S AND CONTRACTOR=S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND

(3) THE CITY=S AND CONTRACTOR=S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT.

CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTOR=S INDEMNIFICATION IS LIMITED TO \$500,000 PER OCCURRENCE, EXCEPT FOR DIRECT AND/OR CONSEQUENTIAL DAMAGES RESULTING FORM BREACH OF CONTRACT, WHICH SHALL BE LIMITED TO ALL INDIRECT, INCIDENTAL AND

**CONSEQUENTIAL DAMAGES. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.**

**G. INDEMNIFICATION PROCEDURES**

(1) Notice of Claims. If the City or Contractor receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

- (a) a description of the indemnification event in reasonable detail,
- (b) the basis on which indemnification may be due, and
- (c) the anticipated amount of the indemnified loss.

This notice does not estop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10-day period, it does not waive any right to indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims

(a) Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. Contractor shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Contractor must advise the City as to

whether or not it will defend the claim. If Contractor does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

(b) Continued Participation. If Contractor elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Contractor may settle the claim without the consent or agreement of the City, unless it (I) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Contractor does not fund in full, (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

H. Insurance

(a) Risks and Limits of Liability. Contractor shall maintain the following insurance coverages in the following amounts:

<u>COVERAGE</u>	<u>LIMIT OF LIABILITY</u>
Workers' Compensation	<ul style="list-style-type: none"><li>• Statutory for Workers' Compensation</li></ul>
Employer's Liability	<ul style="list-style-type: none"><li>• Bodily Injury by Accident \$100,000 (each accident)</li><li>• Bodily Injury by Disease \$100,000 (policy limit)</li><li>• Bodily Injury by Disease \$100,000 (each employee)</li></ul>
Commercial General Liability: Bodily and Personal Injury; Products and Completed Operations Coverage	<ul style="list-style-type: none"><li>• Bodily Injury and Property Damage, Combined Limits of \$1,000,000 each Occurrence, and \$1,000,000 aggregate</li></ul>
Automobile Liability	<ul style="list-style-type: none"><li>• \$1,000,000 combined single</li></ul>



	limit for (1) Any Auto or (2) All Owned, Hired, and Non-Owned Autos
Professional Liability	<ul style="list-style-type: none"> <li>• \$1,000,000 per occurrence; \$1,000,000 aggregate</li> </ul>
Excess Liability applicable each to CGL and Auto	<ul style="list-style-type: none"> <li>• \$1,000,000</li> </ul>
<b>Aggregate Limits are per 12-month policy period unless otherwise indicated.</b>	

(b) **Insurance Coverage.** At all times during the term of this Agreement and any extensions or renewals, Contractor shall provide and maintain insurance coverage that meets the Agreement requirements in Section III.G.(a). Prior to beginning performance under the Agreement, at any time upon the Director's request, or each time coverage is renewed or updated, Contractor shall furnish to the Director current certificates of insurance, endorsements, all policies, or other policy documents evidencing adequate coverage, as necessary. Contractor shall be responsible for and pay (a) all premiums and (b) any claims or losses to the extent of any deductible amounts. Contractor waives any claim it may have for premiums or deductibles against the City, its officers, agents, or employees. Contractor shall also require all subcontractors or consultants whose subcontracts exceed \$100,000 to provide proof of insurance coverage meeting all requirements stated above except amount. The amount must be commensurate with the amount of the subcontract, but no less than \$500,000 per claim.

(c) **Form of insurance.** The form of the insurance shall be approved by the Director and the City Attorney; such approval (or lack thereof) shall never (a) excuse non-compliance with the terms of this Section, or (b) waive or estop the City from asserting its rights to terminate this Agreement. The policy issuer shall (1) have a Certificate of Authority to transact insurance

business in Texas, or (2) be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+, and a Best's Financial Size Category of Class VI or better, according to the most current Best's Key Rating Guide.

(d) **Required Coverage.** The City shall be an Additional Insured under this Agreement, and all policies, except Professional Liability and Worker's Compensation, shall explicitly name the City as an Additional Insured. The City shall enjoy the same coverage as the Named Insured without regard to other Contract provisions. Contractor waives any claim or right of subrogation to recover against the City, its officers, agents, or employees, and each of Contractor's insurance policies except professional liability must contain coverage waiving such claim. Each policy, except Workers' Compensation and Professional Liability, must also contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Contract.

All certificates of insurance submitted by Contractor shall be accompanied by endorsements for 1) Additional Insured coverage in favor of the City for Commercial General Liability and Automobile Liability policies, and 2) Waivers of Subrogation in favor of the City for Commercial General Liability, Automobile Liability and Workers' Compensation/Employers' Liability policies. The Director will consider all other forms on a case-by-case basis.

(e) **Notice.** **CONTRACTOR SHALL GIVE 30 CALENDAR DAYS' ADVANCE WRITTEN NOTICE TO THE DIRECTOR IF ANY OF ITS INSURANCE POLICIES ARE CANCELED OR NON-RENEWED.** Within the 30 calendar-day period, Contractor

shall provide other suitable policies in order to maintain the required coverage. If Contractor does not comply with this requirement, the Director, at his or her sole discretion, may immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default.

(f) **Other Insurance.** Contractor will, within a reasonable time upon written request, furnish to the City an affidavit that Contractor is in full compliance with Social Security and Unemployment Compensation Insurance, to the extent such provisions are applicable to Contractor's operations hereunder. If such provisions are not applicable to Contractor's operations hereunder, then Contractor shall not be required to furnish such an affidavit.

I. Warranties

Contractor's performance shall conform to the professional standards prevailing in Harris County, Texas with respect to the scope, quality, due diligence, and care of the services and products Contractor provides under this Agreement.

J. Confidentiality - Protection of City's Interest

Contractor, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents (collectively, "the Information") that they receive, or to which they have access, in strictest confidence. Contractor, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Director authorizes it in writing. Contractor shall obtain written agreements from its agents, employees, contractors, and subcontractors which bind them to the terms in this Section.

K. Use of Work Products

(1) The City may use all notes, plans, computations, databases, tabulations, exhibits, photographs, reports, underlying data and other work products (collectively, the "Documents") that Contractor prepares or obtains under this Agreement.

(2) Contractor warrants that it owns the copyright to the Documents.

(3) Contractor shall deliver the original Documents to the Director on request. Within five working days after this Agreement terminates, Contractor shall deliver to the Director the original Documents, and all other files and materials Contractor produces or gathers during its performance under this Agreement.

L. Licenses and Permits

Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation. Contractor shall immediately notify the Director of any suspension, revocation, or other detrimental action against his or her license.

M. Compliance with Laws

Contractor shall comply with all applicable state and federal laws and regulations and the City Charter and Code of Ordinances.

N. Compliance with Equal Opportunity Ordinance

Contractor shall comply with the City's Equal Employment Opportunity Ordinance as set out in Section 15-17 of the Code of Ordinances."

O. Drug Abuse Detection and Deterrence

(1) It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

(2) Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):

- (a) a copy of its drug-free workplace policy,
- (b) the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "C," together with a written designation of all safety impact positions and,
- (c) if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "D."

If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every six months during the performance of this Agreement or on completion of this Agreement if performance is less than six months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "E." Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.

(3) Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.

(4) Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

P. Pay or Play

The requirements and terms of the City of Houston Pay or Play program as set out in Executive Order 1-7, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order No. 1-7 and shall comply with its terms and conditions as they are set out at the time of City Council approval of this Agreement.

R. Contractor Performance

Contractor shall make citizen satisfaction a priority in providing services under this Contract. Contractor's employees shall be trained to be customer-service oriented and to positively and politely interact with citizens when performing contract services. Contractor's employees should be clean, courteous, efficient and neat in appearance at all times and committed to offering the highest degree of service to the public. If, in the Director's determination, the Contractor is not interacting in a positive and polite manner with citizens, the Contractor shall take all remedial steps to conform to the standards set by this Contract and is subject to termination for breach of contract.

S. MWBE Compliance

Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least \_\_\_\_% of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunity ("OBO"), and will comply with them.

Contractor shall ensure that all subcontracts with MWBE subcontractors and suppliers contain the following terms:

- I. \_\_\_\_\_ (MWBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's

OBO Director ("the Director").

2. \_\_\_\_\_ (MWBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform (1) audits of the books and records of the subcontractor, and (2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action or the applicable statute of limitations.

3. Within five business days of execution of this subcontract, Contractor (prime contractor) and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.

4. Any controversy between the parties involving the construction or application of any of the terms, covenants, or conditions of this subcontract may be submitted to the Director. The Director may prescribe procedures to provide dispute resolution by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.

#### IV. DUTIES OF CITY

##### A. Payment Terms



The City shall pay Contractor for the basic services Contractor renders under this Agreement in accordance with the budget set forth in Exhibit "E."

B. Expenses and Reimbursement

Reimbursable expenses include the following:

- (1) the ordinary and reasonable cost, including any sales tax Contractor is legally required to pay, for monitors, facilities, tables and chairs as described in Exhibit "F" Contractor incurs during its performance of services under this Agreement; and
- (2) the ordinary and reasonable costs of travel to points outside of Houston by Contractor=s representatives, not to exceed the amount established under the City=s then-current travel reimbursement policy for its employees, if the travel is reasonably necessary to accomplish a task and authorized by the Director.

C. Taxes

The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City=s exemption certificate and federal tax identification number to Contractor if requested.

D. Method of Payment

The City of Houston's standard payment term is to pay 30 days after receipt of invoice or receipt of goods or services, whichever is later, according to the requirements of the Texas

Prompt Payment Act (Tex. Gov't Code, Ch. 2251). However, the City will pay in less than 30 days in return for an early payment discount from vendor as follows:

- Payment Time - 10 Days: 2% Discount
- Payment Time - 20 Days: 1% Discount

If the City fails to make a payment according to the early payment schedule above, but does make the payment within the time specified by the Prompt Payment Act, the City shall not receive the discount, but shall pay no other penalty. When the payment date falls on a Saturday, Sunday, or official holiday when City offices are closed and City business is not expected to be conducted, payment may be made on the following business day.

E. Method of Payment - Disputed Payments

If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. If the dispute is settled in favor of the Firm, the Firm shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only. If the dispute is settled in favor of the City, the City shall not pay the disputed amount.

F. Limit of Appropriation

(1) The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.

(2) In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated

\$ \_\_\_\_\_ .00 to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:

(3) The City makes a Supplemental Allocation by issuing to Contractor a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

#### **NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS**

By the signature below, the City Controller certifies that, upon the request of the responsible director, the supplemental sum set out below has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This supplemental allocation has been charged to such appropriation.

(4) The Original Allocation plus all supplemental allocations are the Allocated Funds. The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds. Contractor must assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under this Agreement, and it has no other remedy in law or in equity against the City and no right to damages of any kind.

#### **V. TERM AND TERMINATION**

##### **A. Contract Term**

This Agreement is effective on the Countersignature Date and remains in effect for three years, unless sooner terminated under this Agreement. Contractor shall not commence services hereunder until such time as the Chief Procurement Officer issues a notice to proceed to Contractor authorizing the initiation of services. All dates set forth in Exhibit "A" shall begin, not from the Countersignature Date, but from the issuance of the notice to proceed.

B. Renewals

Upon expiration of the initial term and so long as the City makes sufficient supplemental allocations, this Agreement will be automatically renewed for two successive one-year terms or portion thereof upon the same terms and conditions. If the Director or the City chooses not to renew this Agreement, the Director shall notify Contractor of non-renewal at least 30 days before the expiration of the then-current term.

C. Termination for Convenience by City

The Director may terminate this Agreement at any time by giving 30 days written notice to Contractor. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies which exist now or in the future.

On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Contractor for services

actually performed, but not already paid for, in the same manner as prescribed in Section IV unless the fees exceed the allocated funds remaining under this Agreement.

TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED IN THIS SECTION), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE.

D. Termination for Cause

If Contractor defaults under this Agreement, the Director may either terminate this Agreement or allow Contractor to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies which exist now or in the future. Default by Contractor occurs if:

- (1) Contractor fails to perform any of its duties under this Agreement;
- (2) Contractor becomes insolvent;
- (3) all or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or
- (4) a receiver or trustee is appointed for Contractor.

If a default occurs, the Director may, but is not obligated to, deliver a written notice to Contractor describing the default and the termination date. The Director, at his or her sole

option, may extend the termination date to a later date. If the Director allows Contractor to cure the default and Contractor does so to the Director's satisfaction before the termination date, then the termination is ineffective. If Contractor does not cure the default before the termination date, then the Director may terminate this Agreement on the termination date, at no further obligation of the City.

To effect final termination, the Director must notify Contractor in writing. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement, and promptly cancel all orders or subcontracts chargeable to this Agreement.

E. Termination for Cause by Contractor

Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default after receiving written notice of it. Default by the City occurs if the City fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor wishes to terminate the Agreement, then Contractor must deliver a written notice to the Director describing the default and the proposed termination date. The date must be at least 30 days after the Director receives notice. Contractor, at its sole option, may extend the proposed termination date to a later date. If the City cures the default before the proposed termination date, then the proposed termination is ineffective. If the City does not cure the default before the proposed termination date, then Contractor may terminate its performance under this Agreement on the termination date.

## VI. MISCELLANEOUS

### A. Independent Contractor

Contractor shall perform its obligations under this Agreement as an independent contractor and not as an employee of the City.

SAMPLE

B. Force Majeure

1. Timely performance by both parties is essential to this Agreement. However, neither party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by Force Majeure that directly impacts the City or Contractor. The event of Force Majeure may permit a reasonable delay in performance but does not excuse a party's obligations to complete performance under this Agreement. Force Majeure means: fires, interruption of utility services, epidemics in the City, floods, hurricanes, tornadoes, ice storms and other natural disasters, explosions, war, terrorist acts against the City or Contractor, riots, court orders, and the acts of superior governmental or military authority, and which the affected party is unable to prevent by the exercise of reasonable diligence. The term does not include any changes in general economic conditions such as inflation, interest rates, economic downturn or other factors of general application; or an event that merely makes performance more difficult, expensive or impractical. Force Majeure does not entitle Contractor to extra Reimbursable Expenses or payment.

2. This relief is not applicable unless the affected party does the following:

- (a) uses due diligence to remove the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and
- (b) provides the other party with prompt written notice of the cause and its anticipated effect.



3. The Director will review claims that a Force Majeure that directly impacts the City or Contractor has occurred and render a written decision within 14 days. The decision of the Director is final.

4. The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance is not a default or breach of this Agreement by the City.

5. If the Force Majeure continues for more than 10 days from the date performance is affected, the Director may terminate this Agreement by giving 7 days' written notice to Contractor. This termination is not a default or breach of this Agreement. **CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT UP TO THE TIME THE WORK IS HALTED DUE TO FORCE MAJEURE.**

6. Contractor is not relieved from performing its obligations under this Agreement due to a strike or work slowdown of its employees. Contractor shall employ only fully trained and qualified personnel during a strike.

C. Severability

If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

D. Entire Agreement

This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind, exist between the Parties regarding this Agreement.

SAMPLE

E. Written Amendment

Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance adopted by the City Council) and Contractor. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

F. Applicable Laws

This Agreement is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction.

Venue for any litigation relating to this Agreement is Harris County, Texas.

G. Notices

All notices to either party to the Agreement must be in writing and must be delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, Airborne Express, UPS or any other national overnight express delivery service. The notice must be addressed to the party to whom the notice is given at its address set out in Section I of this Agreement or other address the receiving party has designated previously by proper notice to the sending party. Postage or delivery charges must be paid by the party giving the notice.

H. Captions

Captions contained in this Agreement are for reference only, and, therefore, have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

I. Non-Waiver

If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

An approval by the Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The Director is not authorized to vary the terms of this Agreement.

J. Inspections and Audits

City representatives may have the right to perform, or have performed, (1) audits of Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least three (3) years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

K. Enforcement

The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's

compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

SAMPLE

L. Ambiguities

If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

M. Survival

Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

N. Publicity

Contractor shall make no announcement or release of information concerning this Agreement unless the release has been submitted to and approved, in writing, by the Director.

O. Risk of Loss

Unless otherwise specified elsewhere in this Agreement, risk of loss or damage for each Product passes from Contractor to the City upon acceptance by the City.

P. Parties In Interest

This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

Q. Successors and Assigns

This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer or agent of the City.

SAMPLE

R. Business Structure and Assignments

Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the Director=s prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest as described in '9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

Contractor shall not delegate any portion of its performance under this Agreement without the Director=s prior written consent.

S. Remedies Cumulative

Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies which exist now or in the future. Neither party may terminate its duties under this Agreement except in accordance with its provisions.

T. Contractor Debt

IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN



WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FOR ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR.

CONTRACTOR SHALL FILE A NEW AFFIDAVIT OF OWNERSHIP, USING THE FORM DESIGNATED BY CITY, BETWEEN FEBRUARY 1 AND MARCH 1 OF EVERY YEAR DURING THE TERM OF THIS AGREEMENT.

SAMPLE

**EXHIBIT "A"**  
**SCOPE OF SERVICE**

SAMPLE

EXHIBIT "B"

DRUG POLICY COMPLIANCE AGREEMENT

I, \_\_\_\_\_ as an owner or  
\_\_\_\_\_ officer of  
(Name) (Print/Type) (Title)

(Contractor)  
(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

EXHIBIT "C"

CONTRACTOR'S CERTIFICATION  
OF NO SAFETY IMPACT POSITIONS  
IN PERFORMANCE OF A CITY CONTRACT

I, \_\_\_\_\_,  
(Name) (Title)

as an owner or officer of \_\_\_\_\_ (Contractor)  
(Name of Company)

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no employee safety impact positions, as defined in '5.18 of Executive Order No. 1-31, that will be involved

in performing \_\_\_\_\_.  
(Project)

Contractor agrees and covenants that it shall immediately notify the City of Houston Director of Personnel if any safety impact positions are established to provide services in performing this City Contract.

\_\_\_\_\_  
(Date) (Typed or Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

**EXHIBIT "D"**  
**DRUG POLICY COMPLIANCE DECLARATION**

I, \_\_\_\_\_ as an owner or officer  
of \_\_\_\_\_  
(Name) (Print/Type) (Title)

(Contractor)

(Name of Company)

have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from \_\_\_\_\_ to \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_ A written Drug Free Workplace Policy has been implemented and employees notified.  
Initials The policy meets the criteria established by the Mayor's Amended Policy on Drug  
Detection and Deterrence (Mayor's Policy).

\_\_\_\_\_ Written drug testing procedures have been implemented in conformity with the  
Mayor's Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-  
Initials 31. Employees have been notified of such procedures.

\_\_\_\_\_ Collection/testing has been conducted in compliance with federal Health and Human  
Initials Services (HHS) guidelines.

\_\_\_\_\_ Appropriate safety impact positions have been designated for employee positions  
Initials performing on the City of Houston contract. The number of employees in safety  
impact positions during this reporting period is \_\_\_\_\_

\_\_\_\_\_ From \_\_\_\_\_ to \_\_\_\_\_ the following test has  
occurred  
Initials (Start date) (End date)

	<u>Random</u>	<u>Reasonable Suspicion</u>	<u>Post Accident</u>	<u>Total</u>
Number Employees Tested	_____	_____	_____	_____
Number Employees Positive	_____	_____	_____	_____
Percent Employees Positive	_____	_____	_____	_____

\_\_\_\_\_ Any employee who tested positive was immediately removed from the City worksite  
Initials consistent with the Mayor's Policy and Executive Order No. 1-31.

\_\_\_\_\_ I affirm that falsification or failure to submit this declaration timely in accordance  
with  
Initials established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in  
this declaration are within my personal knowledge and are true and correct.

(Date)

(Typed or Printed Name)

(Signature)

(Title)

SAMPLE

**EXHIBIT "E"**

**FEES**

SAMPLE





